

FILED

OCT 22 2019

Clerk, U.S. District Court
District Of Montana
Great Falls

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JORDAN CHARLES
DEMONTINEY,

Defendant.

CR 09-91-GF-BMM-JTJ

**FINDINGS AND
RECOMMENDATIONS**

I. Synopsis

Defendant Jordan Charles Demontiney (Demontiney) has been accused of violating the conditions of his supervised release. Demontiney admitted all of the alleged violations, except one. Demontiney was unable to admit or deny alleged violation 5. The government made no attempt to prove alleged violation 5. Demontiney's supervised release should be revoked. Demontiney should be placed in custody for 7 months, with no supervised release to follow.

II. Status

Demontiney pleaded guilty to Second Degree Murder on September 17, 2009. (Doc. 10). The Court sentenced Demontiney to 108 months of custody, followed by 5 years of supervised release. (Doc. 18). Demontiney's current term

of supervised release began on February 12, 2019. (Doc. 111 at 2).

Petition

The United States Probation Office filed an Amended Petition on October 17, 2019, requesting that the Court revoke Demontiney's supervised release. (Doc. 111). The Amended Petition alleged that Demontiney had violated the conditions of his supervised release: 1) by failing to report for substance abuse testing; 2) by using methamphetamine; 3) by failing to notify his probation officer of a change in employment; 4) by consuming alcohol; 5) committing another crime; and 6) by failing to complete his substance abuse treatment program.

Initial appearance

Demontiney appeared before the undersigned for his initial appearance on the Amended Petition on October 21, 2019. Demontiney was represented by counsel. Demontiney stated that he had read the Petition and that he understood the allegations. Demontiney waived his right to a preliminary hearing. The parties consented to proceed with the revocation hearing before the undersigned.

Revocation hearing

The Court conducted a revocation hearing on October 21, 2019. Demontiney admitted that he had violated the conditions of his supervised release: 1) by failing to report for substance abuse testing; 2) by using methamphetamine;

3) by failing to notify his probation officer of a change in employment; 4) by consuming alcohol; and 5) by failing to complete his substance abuse treatment program. Demontiney was unable to admit or deny alleged violation 5. The government did not attempt to prove alleged violation 5. The violations that Demontiney admitted are serious and warrant revocation of Demontiney's supervised release.

Demontiney's violations are Grade C violations. Demontiney's criminal history category is III. Demontiney's underlying offense is a Class A felony. Demontiney could be incarcerated for up to 60 months. He could be ordered to remain on supervised release for up to 12 months, less any custody time imposed. The United States Sentencing Guidelines call for a term of custody of 5 to 11 months.

III. Analysis

Demontiney's supervised release should be revoked. Demontiney should be placed in custody for 7 months, with no supervised release to follow. This sentence is sufficient but not greater than necessary. Demontiney should receive credit for time served.

IV. Conclusion

The Court informed Demontiney that the above sentence would be

recommended to Judge Morris. The Court also informed Demontiney of his right to object to these Findings and Recommendations within 14 days of their issuance. The Court explained to Demontiney that Judge Morris would consider a timely objection before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose.

The Court **FINDS:**

That Jordan Charles Demontiney violated the conditions of his supervised release: by failing to report for substance abuse testing; by using methamphetamine; by failing to notify his probation officer of a change in employment; by consuming alcohol; and by failing to complete his substance abuse treatment program.

The Court **RECOMMENDS:**

That the District Court revoke Demontiney's supervised release and commit him to the custody of the United States Bureau of Prisons for a term of 7 months, with no supervised release to follow. Demontiney should receive credit for time served.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO
OBJECT**

The parties may serve and file written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. § 636(b)(1). A United States district court judge will make a de novo determination regarding any portion of the Findings and

Recommendations to which objection is made. The district court judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district court judge, and may waive the right to appear and allocute before a district court judge.

DATED this 22nd day of October, 2019.



John Johnston
United States Magistrate Judge